

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.) Case No. 04-00302-01-W-ODS
)
ANTONIO CLEMMONS,)
)
)
Defendant.)

REPORT AND RECOMMENDATION

On September 14, 2004, an Indictment was returned charging the defendant with being a felon in possession of a firearm in violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2). Defense counsel filed a Motion for Determination of Competency (doc. # 15) asking for a psychiatric or psychological examination, which request the government did not oppose. Counsel indicated that the request for an examination was based upon her interview with defendant and information that the defendant had previously been diagnosed with paranoid personality disorder and committed for restoration of competency. Thereafter, on October 20, 2004, the Court ordered that a competency examination be conducted at a United States Medical Center for Federal Prisoners.

On April 21, 2005, a hearing was held on the issue of defendant's competency. The only evidence offered by the parties was the report prepared by the Metropolitan Detention Center in Los Angeles, California dated March 30, 2005. During the interview, Mr. Clemons denied any history of mental health treatment or significant difficulties. The evaluators indicated that Mr. Clemons did not exhibit any objective signs of cognitive impairment, dementia, or brain damage. The report concluded that there is no evidence to indicate that Mr. Clemons suffers from a mental disorder that impairs his ability to understand the nature and consequences of the Court proceedings against

him. Likewise the report concluded that defendant's ability to cooperate with counsel in his defense and participate in court proceedings does not appear to be impaired.

Therefore, based on the information before the Court, it is

RECOMMENDED that the Court, after making an independent review of the record and applicable law, enter an order finding that defendant Antonio Clemons is not currently suffering from a mental disease or defect which would prevent him from understanding the nature and consequences of the proceedings against him or assisting in his own defense and that he is competent to stand trial.

Counsel are reminded they have ten days from the date of the receipt of a copy of this Report and Recommendation within which to file and serve objections to same. A failure to file and serve timely objections shall bar an attack on appeal of the factual findings in this Report and Recommendation which are accepted or adopted by the district judge, except on grounds of plain error or manifest injustice.

/s/

SARAH W. HAYS
UNITED STATES MAGISTRATE JUDGE